

REMARKS

Applicants respectfully request reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claim 1 has been amended. Claim 10 has been canceled. Claims 39-41 have been added. Thus, claims 1-9, 12-15 and 39-41 are pending.

REJECTIONS UNDER 35 U.S.C. §103

Claims 1-10 and 12-15

These claims are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Boucher, USPN 6,434,620 (hereinafter "*Boucher*") in view of "Introduction to the Remote Monitoring (RMON) family of MIB Modules" by Waldbusser, et al., (hereinafter "*Waldbusser*") and Kraslavsky, USPN 5,699,350 (hereinafter "*Kraslavsky*") and an alleged Official Notice of the Examiner (hereinafter "*alleged Official Notice*"). Claim 10 is canceled herein, rendering moot the above rejection as applied thereto. Without agreeing as to any propriety of the *alleged Official Notice*, Applicants traverse the rejection as applied to pending claims 1-9 and 12-15.

Each of the pending rejected claims is not obvious in light of *Boucher*, *Waldbusser*, *Kraslavsky* and the *alleged Official Notice*, at least insofar as the references fail to teach or suggest (emphasis added):

"A network interface, comprising:...

a network data transmit path to couple a host system to a network; and circuitry to:

receive and transmit network data for a host processor of the host system, the **transmitting network data via the network data transmit path**;

intercept from the network data transmit path one or more packets from said host processor;...

configure said initiation of the direct memory access transfers using a configuration information, wherein the circuitry to **determine said configuration information from a payload of said one or more packets...**"

as recited in current independent claim 1. The claim amendments are supported in the original disclosure at least by FIGS. 2 and 3 and by paragraphs [0008], [0011] and [0023] of the specification.

The Final Office Action alleges that a network interface initiating a direct memory access (DMA) transfer of statistics is taught by an intelligent network interface card (INIC) in *Boucher*. *Boucher* discusses a mechanism by which a host sends a Utility Processor Requests (UPRs) to the INIC each time it wants to retrieve statistics from the INIC. See, e.g. *Boucher* col. 56, lines 18-50. More particularly, *Boucher* col. 56, lines 27-30 states in a salient portion (emphasis added):

“UPRs are handled exclusively by the utility processor on the INIC. Each UPR command is initiated by **writing to the corresponding register on the INIC**. The address written to the register tells the INIC where to place the data....”

However, *Boucher* does not provide any details as to a particular data path of the INIC which might be used in writing to an INIC register for a UPR command. Therefore, *Boucher* fails to teach whether or how a UPR command might be implemented by sending some data, **and intercepting that data, on a network data transmit path** of the INIC.

By contrast, current independent claim 1 recites that circuitry of a network interface is to periodically initiate DMA transfers of the set of statistics, and to configure said initiation using configuration information determined from one or more packets which have been **intercepted from a network data transmit path** of the network interface. Neither *Waldbusser* nor *Kraslavsky* provides any details related to whether or how a network interface might configure a DMA transfer of statistics based on information intercepted from a network data path. The *alleged Official Notice* is limited to an alleged obviousness of a time interval. Accordingly, neither *Waldbusser* nor *Kraslavsky* nor the *alleged Official Notice* cures the failure of *Boucher* to teach or suggest the particular configuring of DMA transfers which is recited in current independent claim 1.

Accordingly, independent claim 1 is non-obvious in light of *Boucher*, *Waldbusser*, *Kraslavsky* and the *alleged Official Notice*, as are any claims depending therefrom. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §103(a) rejection of

claims 1-9 and 1-15 based on *Boucher*, *Waldbusser*, *Kraslavsky* and the *alleged Official Notice* be withdrawn.

NEW CLAIMS

Applicants have added new claims 39-41, which variously depend from current independent claim 1. New claims 39-41 are supported in the original disclosure at least by paragraphs [0013]-[0014] of the specification. It is Applicants' understanding that new claims 39-41 are allowable in view of the references discussed above. More particularly, new claims 39-41 are patentable over *Boucher*, *Waldbusser*, *Kraslavsky* and the *alleged Official Notice*, at least insofar as they incorporate those limitations of current claim 1 which are demonstrated above to be non-obvious in view of the cited references.

CONCLUSION

For at least the foregoing reasons, Applicants submit that all pending objections and/or rejections have been overcome. Therefore, all pending claims are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: December 31, 2009

/Dermot G. Miller/
Dermot G. Miller
Attorney for Applicants
Reg. No. 58,309

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(503) 439-8778